

EMERY CELLI BRINCKERHOFF ABADY WARD & MAAZEL LLP

JONATHAN S. ABADY
MATTHEW D. BRINCKERHOFF
ANDREW G. CELLI, JR.
RICHARD D. EMERY
DEBRA L. GREENBERGER
DIANE L. HOUK
DANIEL J. KORNSTEIN
JULIA P. KUAN
HAL R. LIEBERMAN
ILANN M. MAAZEL
KATHERINE ROSENFELD
ZOE SALZMAN
SAM SHAPIRO
EARL S. WARD
O. ANDREW F. WILSON

ATTORNEYS AT LAW
600 FIFTH AVENUE AT ROCKEFELLER CENTER
10TH FLOOR
NEW YORK, NEW YORK 10020

TEL: (212) 763-5000
FAX: (212) 763-5001
www.ecbawm.com

MONDAIRE JONES
VASUDHA TALLA

ERIC ABRAMS
NICK BOURLAND
HANNAH BRUDNEY
DANIEL M. EISENBERG
ARIADNE M. ELLSWORTH
SARA LUZ ESTELA
LAURA S. KOKOTAILO
SONYA LEVITOVA
SARAH MAC DOUGALL
SANA MAYAT
HARVEY PRAGER
VIVAKE PRASAD
MAX SELVER
EMILY K. WANGER
RACHAEL WYANT

June 7, 2024

Via ECF

Honorable Vera M. Scanlon
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Nadezda Steele-Warrick v. Microgenics Corporation et al.*,
No. 19-cv-6558 (FB) (VMS)

Dear Judge Scanlon:

This firm represents Plaintiffs in the above-captioned case. We write regarding the motion at ECF No. 269 regarding the upcoming expert deposition of Dr. Robert Swotinsky.

Plaintiffs have no objection to Attorney Rob Rickner's requested relief. Plaintiffs agree that at minimum, Mr. Rickner should be permitted to attend Dr. Swotinsky's upcoming deposition.

Plaintiffs have agreed to produce Dr. Swotinsky for a second deposition, despite him already sitting for a full day of questioning by counsel for Microgenics Corporation and Thermo Fisher Scientific, Inc. (the "Corporate Defendants") during his deposition in the related case in *Wills v. Microgenics Corporation et al.*, 20-cv-4432 (E.D.N.Y.). However, Plaintiffs object to counsel for the Corporate Defendants asking questions duplicative of those they asked Dr. Swotinsky during his first deposition, as the majority of counsel's questioning pertained to Dr. Swotinsky's expert report generally (the same report was issued in both cases), versus relatively few fact-specific questions pertaining to plaintiff Ruben Wills's particular case.

EMERY CELLI BRINCKERHOFF ABADY WARD & MAAZEL LLP

Page 2

Plaintiffs have no objection to Dr. Swotinsky being questioned by counsel for the various defendants who did not receive adequate notice of or did not attend Dr. Swotinsky's deposition in *Wills*.

We thank the Court for its attention to this matter.

Respectfully Submitted,

/s/

Eric Abrams

c. All counsel (by ECF)